



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 1  
5 Post Office Square, Suite 100  
BOSTON, MA 02109-3912

MAY 06 2016

**USPS Certified Mail**

Docket No. CWA-308-R01-FY16-64

Peter White, President  
J.F. White Contracting Company  
10 Burr St  
Framingham, MA 01701

**Re: Request for Information Pursuant to Section 308 of the Clean Water Act  
(33 U.S.C. § 1318)**

Dear Mr. White:

Enclosed is a Request for Information ("Request") related to the construction project at the I-91 Deerfield River and Lower Road bridges (the "Site"). On April 12, 2016, the U.S. Environmental Protection Agency, Region 1 (the "Region") conducted a Clean Water Act stormwater inspection at the Site.

Section 308(a) of the Clean Water Act ("the Act"), 33 U.S.C. § 1318(a) authorizes the United States Environmental Protection Agency ("EPA") to require any owner or operator of any point source to provide information needed to determine whether there has been a violation of the Act. Accordingly, you are hereby required, pursuant to 33 U.S.C. § 1318(a) to respond to the enclosed Information Request (**Enclosure 1**) **within thirty (30) calendar days of receipt of this letter.**

Please read the instructions and definitions in the enclosure carefully before preparing your response. Answer each question as clearly and completely as possible. Your response to this request must be accompanied by a certificate that is signed and dated by the person who is authorized by you to respond to the request. The certification must state that the response is complete and contains all information and documentation available to you that is responsive to the request. A **Statement of Certification** is enclosed with this letter (**Enclosure 2**).

Submissions required by this Request shall be submitted in hard copy and electronically and shall be mailed and emailed to the following address:

Andrew Spejewski  
U.S. Environmental Protection Agency  
Water Technical Unit (OES04-1)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912  
spejewski.andrew@epa.gov

Although the information requested must be submitted to the EPA, you are entitled to assert a business confidentiality claim pursuant to the regulations set forth in 40 C.F.R. Part 2, Subpart B. If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you.

The Small Business Regulatory Enforcement and Fairness Act ("SBREFA") provides small businesses with the opportunity to submit comments on regulatory enforcement at the time of an EPA enforcement activity. The enclosed Information Sheet (**Enclosure 3**) provides information on this right, as well as information on compliance assistance that may be available to you. The Small Business Ombudsman may be reached at 1-800-368-5888. Please be aware that this does not relieve you of your responsibility to comply with federal law, your NPDES Permit, and this information request.

You may wish to visit the EPA's national or Region One storm water websites to obtain more information on general Federal and State storm water requirements at:

[http://cfpub.epa.gov/npdes/home.cfm?program\\_id=6](http://cfpub.epa.gov/npdes/home.cfm?program_id=6)  
<http://www.epa.gov/region01/topics/water/stormwater.html>

Compliance with the provisions of this letter is mandatory. Failure to respond fully and truthfully or to respond within the time frame specified above constitutes a violation of the Clean Water Act subject to enforcement action, including the assessment of penalties. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal prosecution under 18 U.S.C. § 1001. Please be aware that the issuance of this letter and providing the requested information does not relieve you of any responsibility under the Act.

If you have any technical questions relating to this information request, please contact Andrew Spejewski of my staff at (617) 918-1014. If you have any legal questions, or if your attorney wishes to communicate with the EPA on your behalf, please contact Jeffrey Kopf, Senior Enforcement Counsel at (617) 918-1796.

Sincerely,

A handwritten signature in blue ink, appearing to read "James Chow", written over a horizontal line.

James Chow, Manager  
Technical Enforcement Office  
Office of Environmental Stewardship

Enclosures

- (1) Information Request
  - (2) Statement of Certification
- Information Sheet (U.S. EPA Small Business Resources)



## **Enclosure 1**

### **Information Request**

#### **A. Instructions**

1. All documents relied upon or used by you to answer any of the questions in the request must be copied and submitted to the EPA with your response. All documents must contain a notation indicating the question and subpart of the question to which they are responsive.
2. If any question cannot be answered in full, answer to the extent possible. If your responses are qualified in any manner, please explain.
3. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to the EPA. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA of this fact as soon as possible and provide a corrected response.
4. Please provide a separate narrative response to each and every question and subpart of a question set forth in this Information Request. Precede each answer with the text and the number of the question and the subpart to which the answer corresponds.
5. For the purpose of answering the following questions, "the Site" refers to the project at I-91 over the Deerfield River and Lower Road, in Deerfield, Massachusetts.



**B. Respond to the Following Questions**

1. Specify, without abbreviation, the full legal name of the owner(s) of all portions of the Site since the beginning of earth-disturbing activities.
2. Specify the operators<sup>1</sup> of the Site during all times that construction activities are/were occurring since January 1, 2011. Provide the name and address of each operator specified, the area of the Site under its control, and the period of time during which each was an operator at the Site.
3. Provide a map of the Site. The map must include approximate elevations sufficient to show direction of stormwater flow and must indicate locations of erosion control measures. Delineate on the map the different portions of the Site identified in question 1 above. Indicate all stormwater control structures and catchbasins, pipes, detention basins, and other structures, as they existed on April 12, 2016, and indicate locations of any removed catchbasins.
4. For each Site stormwater discharge to surface waters or wetlands, state the name and location of the receiving waters or wetlands. If unknown, identify the unnamed surface waters, and the nearest named surface water or wetland to which the unnamed water flows. If stormwater is not discharged directly to surface waters or wetlands (i.e., collected in a detention basin, swales, catch basins), describe the pathway of the stormwater flow including the immediate and ultimate destinations and the means of conveyance. If the discharge of stormwater has changed since the date(s) that earth-disturbing activities commenced, provide a description of the changes, and the dates when the discharge changed.
5. Provide copies of all Stormwater Pollution Prevention Plans (SWPPPs) developed for the Site.<sup>2</sup>
6. Describe whether the construction sequence in the most recent SWPPP followed. If it was not followed, explain all differences and the reasons for the changes.
7. For all drainage structures in the median between the existing southbound and new northbound lanes, from the Deerfield River to the southern limit of the site, provide the sequence of construction with approximate dates, including (as applicable), closing original structures off from receiving stormwater, removing original structures, installing new pipe, installing new catchbasin structures, and opening new or existing catchbasins to receive stormwater flow.

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<sup>1</sup> "Operator" in the context of storm water associated with construction activity means any party that: 1) has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or 2) has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a Stormwater Pollution Prevention Plan for the site or other permit conditions.

<sup>2</sup> If an electronic copy of the SWPPP is submitted, a hard copy does not need to be provided as well.

8. For all drainage structures in the median between the existing southbound and new northbound lanes, from the Deerfield River to the southern limit of the site, describe any controls (e.g. silt sacks) in place to reduce sediment discharge to the drainage system, and approximate dates they were in place.
9. Explain why no sediment barriers (e.g. silt sacks) were protecting the catchbasins in the median south of the Deerfield River on April 12, 2016.
10. For the median between the existing southbound and new northbound lanes, from the Deerfield River to the southern limit of the site, provide:
  - a. Date(s) of rough grading;
  - b. A detailed sequence of earth-disturbing activities in the last year, including for each activity, a description of the activity, approximate dates and approximate size of area disturbed; and
  - c. Dates of all temporary or permanent soil stabilization activities.
11. For the slopes along the eastern shoulder of the old northbound lanes, from the Deerfield River to the southern limit of the site, provide:
  - a. Date(s) of rough grading;
  - b. A detailed sequence of earth-disturbing activities in the last year, including for each activity, a description of the activity, approximate dates and approximate size of area disturbed; and
  - c. Dates of all temporary or permanent soil stabilization activities.
12. For inspections of erosion controls between March 1, 2016 and April 30, 2016, provide a copy of notes taken during each inspection and all final inspection reports





## Enclosure 2

Instructions: Complete and include with your response

### STATEMENT OF CERTIFICATION

I declare under penalty of perjury that I am authorized to respond on behalf of J.F. White Contracting Company. I certify that the foregoing responses and information submitted were prepared by me, or under my direction or supervision, and that I have personal knowledge of all matters set forth in the responses and the accompanying information. I certify that the responses are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

By \_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
(Printed)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)





## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

### Small Business Programs

[www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)  
EPA's Office of Small Business Programs (OSBP) advocates and fosters opportunities for direct and indirect partnerships, contracts, and sub-agreements for small businesses and socio-economically disadvantaged businesses.

### EPA's Asbestos Small Business Ombudsman

[www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888  
The EPA Asbestos and Small Business Ombudsman (ASBO) serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

### EPA's Compliance Assistance Homepage

[www2.epa.gov/compliance](http://www2.epa.gov/compliance)  
This page is a gateway industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

### EPA's Compliance Assistance Centers

[www.assistancecenters.net](http://www.assistancecenters.net)  
EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

### Agriculture

[www.epa.gov/agriculture/](http://www.epa.gov/agriculture/)

### Automotive Recycling

[www.ecarcenter.org](http://www.ecarcenter.org)

**Automotive Service and Repair**  
[ccar-greenlink.org/](http://ccar-greenlink.org/) or 1-888-GRN-LINK

**Chemical Manufacturing**  
[www.chemalliance.org](http://www.chemalliance.org)

**Construction**  
[www.cicacenter.org](http://www.cicacenter.org) or 1-734-995-4911

**Education**  
[www.campuserc.org](http://www.campuserc.org)

**Food Processing**  
[www.fpeac.org](http://www.fpeac.org)

**Healthcare**  
[www.hercenter.org](http://www.hercenter.org)

**Local Government**  
[www.lgean.org](http://www.lgean.org)

**Metal Finishing**  
[www.nmfrc.org](http://www.nmfrc.org)

**Paints and Coatings**  
[www.paintcenter.org](http://www.paintcenter.org)

**Printing**  
[www.pneac.org](http://www.pneac.org)

**Ports**  
[www.portcompliance.org](http://www.portcompliance.org)

**Transportation**  
[www.tercenter.org](http://www.tercenter.org)

**U.S. Border Compliance and Import/Export Issues**  
[www.bordercenter.org](http://www.bordercenter.org)

### EPA Hotlines, Helplines and Clearinghouses

[www2.epa.gov/home/epa-hotlines](http://www2.epa.gov/home/epa-hotlines)  
EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

**Clean Air Technology Center (CATC) Info-line**  
[www.epa.gov/ttn/catc](http://www.epa.gov/ttn/catc) or 1-919-541-0800

**Superfund, TRI, EPCRA, RMP and Oil Information Center**  
[www.epa.gov/superfund/contacts/infocenter/index.htm](http://www.epa.gov/superfund/contacts/infocenter/index.htm) or 1-800-424-9346

**EPA Imported Vehicles and Engines Public Helpline**  
[www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or 734-214-4100

**National Pesticide Information Center**  
[www.npic.orst.edu/](http://www.npic.orst.edu/) or 1-800-858-7378

**National Response Center Hotline** to report oil and hazardous substance spills - [www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802

**Pollution Prevention Information Clearinghouse (PPIC)** - [www.epa.gov/opptintr/ppic](http://www.epa.gov/opptintr/ppic) or 1-202-566-0799

**Safe Drinking Water Hotline** - [www.epa.gov/drink/hotline/index.cfm](http://www.epa.gov/drink/hotline/index.cfm) or 1-800-426-4791



### Stratospheric Ozone Protection Hotline

[www.epa.gov/ozone/comments.htm](http://www.epa.gov/ozone/comments.htm) or 1-800-296-1996

### Toxic Substances Control Act (TSCA) Hotline

[tsca-hotline@epa.gov](mailto:tsca-hotline@epa.gov) or 1-202-554-1404

### Small Entity Compliance Guides

<http://www.epa.gov/sbrefa/compliance-guides.html>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

### Regional Small Business Liaisons

<http://www.epa.gov/sbo/rsbl.htm>

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

### State Resource Locators

[www.envcap.org/statetools](http://www.envcap.org/statetools)

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

### State Small Business Environmental Assistance Programs (SBEAPs)

[www.epa.gov/sbo/507program.htm](http://www.epa.gov/sbo/507program.htm)

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

### EPA's Tribal Portal

[www.epa.gov/tribalportal/](http://www.epa.gov/tribalportal/)

The Portal provides access to information on environmental issues, laws, and resources related to federally recognized tribes.

### EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

### EPA's Small Business Compliance Policy

[www2.epa.gov/enforcement/small-businesses-and-enforcement](http://www2.epa.gov/enforcement/small-businesses-and-enforcement)

This Policy offers small businesses special incentives to come into compliance voluntarily.

### EPA's Audit Policy

[www2.epa.gov/compliance/epas-audit-policy](http://www2.epa.gov/compliance/epas-audit-policy)

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

### Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

### Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.*